

DEPARTMENT OF THE ARMY PERMIT

Permittee: Liberty Mine, LLC

Permit Number: LRL- 2014-336-GJD

Issuing Office: U.S. Army Engineer District, Louisville

NOTE: The term "you" and its derivatives, as used in this permit, means the permittee or any future transferee. The term "this office" refers to the appropriate district or division office of the Corps of Engineers having jurisdiction over the permitted activity or the appropriate official acting under the authority of the commanding officer.

You are authorized to perform work in accordance with the terms and conditions specified below.

Project Description: The permittee is authorized to discharge fill and/or dredged material into "waters of the United States" located at the proposed Liberty Mine, located in Warrick County, Indiana. The authorization allows for direct impacts to 2,007 linear feet of ephemeral streams, 3,028 linear feet of intermittent streams, 2.8 acres of acres of palustrine forested (PFO) wetlands, 3.8 acres of palustrine unconsolidated bottom (PUBG) wetlands, 26.8 acres of palustrine emergent (PEM) wetlands, 0.6 acre of palustrine scrub-shrub (PSS) wetlands, and 30 acres of open waters. The filling activities would facilitate and allow the removal of all economically recoverable coal.

All economically recoverable coal would be removed during the excavation of the area, processed and sold. Upon completion of mining, the area would be returned to approximate original contours, covered with stockpiled soil material, revegetated, and returned to an approved post-mine land use through the SMCRA process.

Compensatory Mitigation: The permittee shall adhere to the stream and wetland mitigation plans as described in plans submitted by letter dated January 15, 2016 and referenced as, "Liberty A1, Liberty Mine, LLC. (Liberty) ACOE ID # LRL-2014-336-GJD 401 WQC # 2014-390-87-DDC-A IDNR # S-00366." This mitigation shall include both "On Site Mitigation" and Off Site Mitigation" as generally described below.

On-Site Mitigation: The permittee shall construct 1,204 linear feet of ephemeral streams and 946 linear feet of an intermittent stream through the mine reclamation process. Ephemeral streams shall be planted with 50-foot riparian buffers and the intermittent stream would be planted with 100-foot buffers. The stream construction would utilize natural stream channel designs as described in the approved plans. Streams will be positioned in reclamation landscape so as to emulate positions in an alluvial valley. Channel area for the mitigation streams shall be derived from regional curve data and sized to a 1 year return interval. The channels would include the placement of instream structures to develop in stream habitat for aquatic organisms.

Onsite wetland mitigation will be completed with the creation of a 16-acre of PFO wetland. The wetland will receive hydrology from a 165-acre watershed and be positioned to provide baseflow to on site mitigation stream SID-1.

On site open water mitigation would be in the form of creating a minimum of 30 acres of open water from the mining operation.

Off Site Mitigation: In addition, the permittee shall complete stream and wetland mitigation at three different off site locations, herein referred to as Site 1, Site 2, and Site 3.

Site 1 is a 68-acre site located east of Newburgh, Warrick County, Indiana. It is located on the west side of State Rd 61, just north of the Kaiser Road intersection. At this site, the permittee shall restore 56.2 acres of wetlands, 1,250 linear feet of an intermittent stream, and 11.8 acres of riparian buffer.

Site 2 is a 14.9-acre site located east of Newburgh, Warrick County, Indiana, off the east side of State Road 61, north of County Road 650 S. The site includes a degraded unnamed intermittent tributary stream. The permittee shall complete 2,610 linear feet of intermittent stream restoration and 3.3 acres of PFO wetland creation. The existing stream would be plugged and open

sections would remain to serve as oxbow type features on the landscape. The approved plan also includes 9 acres of riparian buffers at this Site.

Site 3 is an 8-acre site located east of Newburgh, Warrick County, Indiana, off the west side of State Road 61, north of Red Brush Road. The site includes a degraded unnamed intermittent tributary stream. The permittee shall complete 1,410 linear feet of intermittent stream restoration and 1.8 acres of PFO wetland creation. The existing stream would be plugged and open sections would remain to serve as oxbow type features on the landscape. The approved plan also includes the restoration of 5 acres of riparian buffers.

All plantings will be managed primarily for hard mast species.

All mitigation shall be protected from further development by Restrictive Covenants in perpetuity.

Project Location: The project site is located northwest of Boonville, Warrick County, Indiana.

Permit Conditions:

General Conditions:

1. The time limit for completing the authorized activity ends on **December 31, 2026**. If you find that you need more time to complete the authorized activity, submit your request for a time extension to this office for consideration at least one month before the above date is reached.
2. You must maintain the activity authorized by this permit in good condition and in conformance with the terms and conditions of this permit. You are not relieved of this requirement if you abandon the permitted activity, although you may make a good faith transfer to a third party in compliance with General Condition 4 below. Should you wish to cease to maintain the authorized activity or should you desire to abandon it without a good faith transfer, you must obtain a modification from this permit from this office, which may require restoration of the area.
3. If you discover any previously unknown historic or archeological remains while accomplishing the activity authorized by this permit, you must immediately notify this office of what you have found. We will initiate the Federal and state coordination required to determine if the remains warrant a recovery effort or if the site is eligible for listing in the National Register of Historic Places.
4. If you sell the property associated with this permit, you must obtain the signature of the new owner in the space provided and forward a copy of the permit to this office to validate the transfer of this authorization.
5. If a conditioned water quality certification has been issued for your project, you must comply with the conditions specified in the certification as special conditions to this permit. For your convenience, a copy of the certification is attached if it contains such conditions.
6. You must allow representatives from this office to inspect the authorized activity at any time deemed necessary to ensure that it is being or has been accomplished with the terms and conditions of your permit.

Special Conditions:

1. The permittee shall adhere to the stream and wetland mitigation plans as described in, "Liberty A1, Liberty Mine, LLC. (Liberty) ACOE ID # LRL-2014-336-GJD 401 WQC # 2014-390-87-DDC-A IDNR # S-00366" dated January 15, 2016. Any modification to the mitigation plan or proposed mitigation locations will be required to be submitted to this office for prior approval.
2. All of the mitigation shall be protected in perpetuity by having the respective property owner(s) on whose property the mitigation property is located execute a completed DECLARATION OF RESTRICTIVE COVENANTS, which shall be in the same form and contain the same terms as the DECLARATION OF RESTRICTIVE COVENANTS

contained in the application/mitigation plan. The approved DECLARATION OF RESTRICTIVE COVENANTS for the offsite mitigation must be recorded with the property deed at the county courthouse within 60 days of permit issuance.

For the onsite mitigation, within 60 days of mitigation construction completion per tract, a final draft of the DECLARATION OF RESTRICTIVE COVENANTS and its' exhibits must be provided to and approved by the Corps of Engineers, Louisville District. The permittee shall ensure that the approved DECLARATION OF RESTRICTIVE COVENANTS is recorded with the property deed on all onsite mitigation sites, within 60 days of Corps approval. In the event the permittee fails to provide a DECLARATION OF RESTRICTIVE COVENANTS for approval that assures long term protection of the mitigation property, or fails to ensure that the approved DECLARATION OF RESTRICTIVE COVENANTS is properly executed and recorded, the permittee shall provide alternative mitigation acceptable to this office within ninety (90) days of notice of such failure from this office.

3. The permittee's responsibility to complete the required compensatory mitigation proposal as referenced in the above Special Conditions shall not be considered fulfilled until mitigation success has been demonstrated, approved by this office, and written verification is received from the U. S. Army Corps of Engineers.
4. To meet the requirements of the Endangered Species Act and to avoid harm to the federally listed Indiana bat, the permittee is restricted from completing any tree clearing activities from April 1 – September 30.

Further Information:

1. Congressional Authorities. You have been authorized to undertake the activity described above pursuant to:

() Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403).

(X) Section 404 of the Clean Water Act (33 U.S.C. 1344).

() Section 103 of the Marine Protection, Research and Sanctuaries Act of 1972 (33 U.S.C. 1413).

2. Limits of this authorization.

- a. This permit does not obviate the need to obtain other Federal, state, or local authorizations required by law.
- b. This permit does not grant any property rights or exclusive privileges.
- c. This permit does not authorize any injury to the property or rights of others.
- d. This permit does not authorize interference with any existing or proposed Federal project.

3. Limits of Federal Liability. In issuing this permit, the Federal Government does not assume any liability for the following:

- a. Damages to the permitted project or uses thereof as a result of other permitted or unpermitted activities or from natural causes.
- b. Damages to the permitted project or uses thereof as a result of current or future activities undertaken by or on behalf of the United States in the public interest.
- c. Damages to persons, property, or to other permitted or unpermitted activities or structures caused by the activity authorized by this permit.
- d. Design or construction deficiencies associated with the permitted work.

e. Damage claims associated with any future modification, suspension, or revocation of this permit.

4. Reliance on Applicant's Data. The determination of this office that issuance of this permit is not contrary to the public interest was made in reliance on the information you provided.

5. Reevaluation of Permit Decision. This office may reevaluate its decision on this permit at any time the circumstances warrant. Circumstances that could require a reevaluation include, but are not limited to, the following:

a. You fail to comply with the terms and conditions of this permit.

b. The information provided by you in support of your permit application proves to have been false, incomplete, or inaccurate (See 4 above).

c. Significant new information surfaces which this office did not consider in reaching the original public interest decision.

Such a reevaluation may result in a determination that it is appropriate to use the suspension, modification, and revocation procedures contained in 33 CFR 325.7 or enforcement procedures such as those contained in 33 CFR 326.4 and 326.5. The referenced enforcement procedures provide for the issuance of an administrative order requiring you to comply with the terms and conditions of your permit and for the initiation of legal action where appropriate. You will be required to pay for any corrective measure ordered by this office, and if you fail to comply with such directive, this office may in certain situations (such as those specified in 33 CFR 209.170) accomplish the corrective measures by contract or otherwise and bill you for the cost.

6. Extensions. General condition 1 establishes a time limit for the completion of the activity authorized by this permit. Unless there are circumstances requiring either a prompt completion of the authorized activity or a reevaluation of the public interest decision, the Corps will normally give you favorable consideration to a request for an extension of this time limit.

Your signature below, as permittee, indicates that you accept and agree to comply with the terms and conditions of this permit.

John Colarman
(PERMITTEE)

Feb 16, 2016
(DATE)

This permit becomes effective when the Federal official, designated to act for the Secretary of the Army, has signed below.

LUKE T. LEONARD
COLONEL, CORPS OF ENGINEERS
DISTRICT COMMANDER

BY: George Delancey
Regulatory Project Manager
Regulatory West Section

16 Feb 2016
(DATE)

When the structures or work authorized by this permit are still in existence at the time the property is transferred, the terms and conditions of this permit will continue to be binding on the new owner(s) of the property. To validate the transfer of this permit and the associated liabilities associated with compliance with its terms and conditions, have the transferee sign and date below.

(TRANSFeree)

(DATE)